

REMARKS

Applicants have carefully reviewed the arguments presented in the Office Action and respectfully request allowance of this application in view of the remarks presented below and the attachments to this amendment.

In the Office Action of March 8, 2004, claims 1 – 23, 33 – 49, 53, 57, 67 and 69 – 85 were allowed. Claims 50, 54 – 56 and 58 were rejected. Of the rejected claims, claims 50 and 58 are independent claims, and claims 54 – 56 are dependent claims which depend from claim 50.

By the present amendment, claim 58 is cancelled.

Concerning claim 50, it has been amended to include subject matter as suggested by the Examiner to avoid the recapture rejection.

Incidentally, regarding recapture, it is respectfully suggested that it should not be applicable to the claims as previously presented in this application, where the claims are significantly more limited in several areas and are directed to different subject matter as compared with the claims which were limited in the course of prosecution of the parent application. However, in order to expedite issuance of the Reissue application the claims under consideration are being cancelled or amended.


Regarding Reissue Declarations, the Reissue declarations for the assignee and two of the inventors are attached. Concerning the third inventor, Mr. Eric Montag, we have written to the last known address for Mr. Montag and have received no reply. Attached to this amendment is a petition requesting that this Reissue patent be granted without the signature of the third inventor, Mr. Montag. Incidentally, a copy of his employee's agreement including a commitment to assign inventions to Royce Medical Company is attached.

In view of the amendments to the claims, the enclosed Declarations and petition, it is respectfully requested that this reissue application be passed to issue. Please note that the Reissue Declaration of two inventors and the Reissue Declaration by the assignee are presented as exhibits in the Petition.

In the event that the amendments and the attached present papers do not place this application entirely in condition for allowance, it would be appreciated if the Examiner would telephone the undersigned. Thank you.

Applicant hereby authorizes the Commissioner to charge any additional fees, which may be required, or credit any overpayment to Deposit Account No. 06-2425. Should such additional fees be associated with an extension of time, Applicant respectfully requests that this paper be considered a petition therefore.

Respectfully submitted,



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Enclosed:

- Exhibit A (Original Claims)
- Declarations of two inventors (Exhibit in Petition)
- Declaration of Assignee (Exhibit in Petition)
- Petition
- Declaration of Alan C. Rose